

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION
NO. 2, AFL-CIO/CLC

Petitioner,

vs.

FIRE & POLICE TELEGRAPH SECTION OF THE
DEPARTMENT OF PUBLIC SAFETY, ST. LOUIS,
MISSOURI

Respondent.

VS.

JURISDICTIONAL STATEMENT

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At the hearing the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following findings of fact and conclusions of law:

FINDINGS OF FACT

The Fire and Police Section of the Department of Public Safety of the City of St. Louis employs approximately 25 persons including one fire alarm manager, one line and cable supervisor, three alarm and signal electrician foremen, thirteen alarm and signal electricians, four electrical helpers, one storekeeper, and one utility man. The fire alarm manager is in command of the entire section. Reporting directly to the manager and in charge of all other employees is the line and cable supervisor. Subordinate to the line and cable supervisor are three alarm and signal electrician foremen who are in charge of the remaining crew members.

A typical work day starts at the storeroom to which all employees report at eight o'clock. At this time job assignments are given to the electrician foremen by the line and cable supervisor. The jobs are determined by the manager as malfunctions occur in the cable system. After the trouble is pinpointed, the job is turned over to the line and cable supervisor who assigns the job to a foreman. Two of the electrician foremen work with the cable splicing crews, there being three crew members under each foreman. The eight employees are divided in to four cable crews with two men on each crew. After the foremen receive the assignments, the work is divided among the four crews. Each foreman is a member of a crew and works at the location of a trouble spot throughout the day. Normally, the foreman remains with his helper until his job assignment is completed. The foreman works alongside the helper, actually splicing the cable as needed. Each foreman estimated that 90% of his time is spent performing manual labor. Once on a job assignment, there is little contact between the foreman and the

other remaining crew members unless they are working at the same location. At the end of the day all employees return to the storeroom. The two foremen working with the cable crews then fill out reports concerning the work done during the day, and submits the reports to the line and cable supervisor.

The third alarm and signal electrician foreman is in charge of the construction crew and the line crew, which consist of a total of approximately eight men. This foreman is also assigned his jobs by the line and cable supervisor and directs the crews accordingly. As with the other two foremen, the City admits that the construction foreman is a working "supervisor" who spends nearly 90% of his time actually working alongside his men. The foreman will leave with one crew and will work with those crew members for the remainder of the day. Occasionally, if one crew is working at a different location, the foreman will visit the other crew to see that their work is being done satisfactorily. Also, should a problem arise, the foreman is available by radio.

The alarm and signal electrician foremen have no authority to hire, transfer, or fire employees. The foremen cannot directly discipline employees. The foremen can, as any other employee, bring a disciplinary problem to the attention of the line and cable supervisor who then reports the problem to the alarm manager. Final authority to discipline, however, rests with the city fire chief.

An additional duty of the foremen is the preparation of annual service ratings of each member of their crew. The report consists of a check-off list on which the foremen rate the competency of the employees in performing their jobs. The service ratings are considered in determining whether employees should be laid off or promoted. The employees are also rated by the line and cable supervisor. Although the alarm manager testified that the reports are considered as a factor in the promotion process, there is no evidence as to the relative weight the service reports are given.

There is a \$1500-\$2000 difference in the wage rate of each employee position from electrician to electrician foreman, and from electrician foreman to line and cable supervisor.

CONCLUSIONS OF LAW

Local 2 has petitioned to be certified as the public employee representative of a bargaining unit comprised of approximately 23 employees of the Fire and Police Telegraph Section of the Department of Public Safety of the City of St. Louis. The City contends that three of the above employees serving as alarm and signal electrician foremen are supervisors and thus should be excluded from the bargaining unit. This Board has long held that supervisors cannot be included in the same bargaining unit as the employees they supervise. St. Louis Fire Fighters Association, Local 73, IAFF, AFL-CIO vs. City of St. Louis, Missouri, Public Case No. 76-013. Consequently, if the employees in question are in fact supervisors they may not be included in the bargaining unit of the remaining employees. Therefore, in order to determine the appropriate bargaining unit, the Board must decide whether the workers are in fact supervisors. As an aid to determine which employees possess supervisory authority, the Board has consistently looked to a number of factors. See St. Charles Professional Fire Fighters, Local 1921, vs. City of St. Charles, Missouri, Public Case No. 79-024; IBEW, Local 1439, AFL-CIO vs. City of Piedmont, Missouri, Public Case No. 79-044. Those factors are:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees.
2. The authority to direct and assign the work force, including a consideration of the amount of independent judgment and discretion exercised in such matters.
3. The number of employees supervised, and the number of other persons exercising greater, similar or less authority over the same employees.

4. The level of pay including a valuation of whether the supervisor is paid for his skill or for his supervision of employees.
5. Whether the supervisor is primarily supervising an activity or primarily supervising employees.
6. Whether the supervisors is a working supervisor or whether he spends a substantial majority of his time merely overseeing employees.

A consideration of these factors as applicable to the facts of this case is set out below.

Testimony of the alarm manager clearly establishes that the electrician foremen play no role in the hiring, transfer, or discharge of other employees. The foremen do prepare annual rating reports which are used somewhat in the promotion process. Although the grading of employees can indicate supervisory status in some instances, this Board, as does the NLRB, does not consider the mere grading of employees as conclusive of the supervisor issue. Geriatrics, Inc., 239 NLRB 34, 99 LRRM 1606, 1607 (1978); Texas Instruments for Rehabilitation and Research, 228 NLRB 578, 94 LRRM 1513, 1516 (1977). In this case the employees are graded only once a year and the evaluations amount to nothing more than the foreman's professional judgment --- a judgment developed by many years of experience on the job --- as to whether the employee can adequately perform his duties. Further, the rank and file employees are also evaluated by the line and cable supervisor and it is not clear as to what weight each evaluation is given in the promotion process. In short, the electrician foremen's role in the promoting of other employees is not sufficient to consider the foremen supervisors.

Similarly, the foremen's role in the disciplinary process does not ascribe to them supervisory status. The foremen cannot directly discipline other employees. The foremen, like other crew members, can only report a disciplinary problem to the line and cable supervisor who reports the incident to the alarm manager. The final authority to discipline inheres in the city fire chief who decides what, if any, disciplinary action should be taken. Given this four-tier framework used with disciplinary problems, it is clear that

a foreman does not effectively recommend the discipline of other employees. Instead, the electrician foremen's function in the disciplinary process is only to report incidents which might lead to disciplinary action. As such, this factor must weigh against considering the foremen supervisors.

The foremen use little independent judgment in directing and assigning their crew members. The job orders are given by the line and cable supervisor. The foremen merely insure that a crew is sent to each location as necessary. Although the other crew members often look to the foremen for direction and advice concerning various problems that arise, their advice is sought because of their many years of experience and expertise in the field and not because the foremen is a supervisor acting in behalf of the City. Accordingly, the foremen's limited authority to direct and assign the employees does not indicate supervisory status.

That each of the foremen has more authority than their crew members does not convince the Board that they are true supervisors. At all times the line and cable supervisor and the alarm manager are on duty, exercising more authority than the electrician foremen. Further, that the foremen receive more pay than other crew members appears to be more a result of their experience and skill rather than their duties overseeing the other crew members.

Most important in our decision that the three electrician foremen are not true supervisors is that each undisputedly are working "supervisors" that spend a substantial majority of their time supervising an activity such as cable splicing or ground digging. Each foremen spends approximately 90% of his time working alongside the other employees. Little time is spent merely overseeing the work of others, thus indicating that the foremen are not true supervisors.

In sum, the Board must conclude that the three electrician foremen are not supervisors but instead possess the authority closer akin to that of a leadsman and, as such, must be included in the bargaining unit of electricians, electrical helpers, and utility men.

DECISION

It is the decision of the State Board of Mediation that an appropriate unit of employees of the Fire and Police Telegraph Section of the Department of Public Safety of the City of St. Louis is as follows: All Alarm and Signal Electrician Foremen, Alarm and Signal Electricians, Electrical Helpers, Storekeepers and Utility men.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as possible, but no later than sixty (60) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill or on vacation. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible to vote shall vote on whether or not they desire to be represented by IBEW, Local 2, AFL-CIO/CLC, for purposes of discussions relative to wages, hours, and other terms and conditions of employment.

It is hereby further ordered that the respondent shall submit to the Chairman of the State Board of Mediation, as well as to the petitioner, within seven (7) days from the date of receipt of this decision, an alphabetical list of names and addresses of the

employees in the unit determined above to be appropriate who were employed during the designated payroll period.

Signed this 7th day of July, 1980.

MISSOURI STATE BOARD OF MEDIATION

(S E A L)

/s/ Conrad L. Berry
Conrad L. Berry, Chairman

/s/ Herbert Shaw
Herbert Shaw, Employer Member

/s/ Joseph Cointin
Joseph Cointin, Employee Member